

**MINUTES**  
**BOARD OF ADJUSTMENT**  
**PUBLIC HEARING**  
**AUGUST 11, 2005**

The Lake County Board of Adjustment met Thursday, August 11, 2005 in the Commission Chambers on the second floor of the Round Administration Building in Tavares, Florida to consider requests for variances and any other petitions that may be submitted in accordance with Chapter XIV of the Lake County Land Development Regulations.

**Board Members Present:**

Howard (Bob) Fox, Jr.  
Darren Eslinger  
Henry Wolsmann, Vice Chairman  
Mary Link Bennett  
Donald Schreiner, Chairman  
Carl Ludecke

**Board Member Not Present:**

Ruth Gray

**Staff Present:**

Terrie Diesbourg, Director, Customer Services Division  
Anita Greiner, Senior Planner, Customer Services Division  
Anna Ely, Public Hearing Coordinator, Customer Services Division  
Sherie Ross, Public Hearing Coordinator, Planning and Development Services Division  
Melanie Marsh, Deputy County Attorney

Chairman Schreiner called the meeting to order at 1:00 p.m. He noted for the record that there was a quorum present. He noted that Proof of Publication for each case was shown on the monitor.

**TABLE OF CONTENTS**

<b><u>CASE NO.</u></b>	<b><u>OWNER/ APPLICANT</u></b>	<b><u>AGENDA NO.</u></b>
Consideration of Minutes	July 7, 2005	
Withdrawals:		
BOA#80-05-2	Douglas J. and Claire-Marie M. Warner	2
BOA#81-05-5	Mary G. Karst	3
Discussion of Consent Agenda		
Consent Agenda Approval:		
BOA#83-05-5	Ricardo B. Valeroso/Anthony S. Newton, Jr.	5
BOA#84-05-1	Brian C. and Claire M. Brooks/Robert E. Cyrus	6
BOA#95-05-2	HNR Construction, LLC/Paul Zukoski	17
Regular Agenda:		
BOA#79-05-5	L. F. Charline Chandler	1
BOA#82-05-5	Albert Yurko/Alison Yurko	4
BOA#85-05-1	Raymond E. Jones	7
BOA#86-05-2	Deby A. and Shelby A. Wilson, II	8
BOA#87-05-2	Karen Cook/Brandee Cook	9
BOA#88-05-5	Lionel A. and Barbara J. Miller	10
BOA#89-05-5	Samuel Rednour/Leslie Campione, PA	11
BOA#93-05-5	Samuel Rednour/Leslie Campione, PA	15
BOA#90-05-4	Thomas and Frances Barmore/Leslie Campione	12
BOA#91-05-5	John P. Owens, Trustee/Leslie Campione, PA	13
BOA#92-05-5	Mark J. Emden III, et al	14
BOA#94-05-2	Ben H. and Leslie E. Griffin	16
Discussion	Time of Meetings	
	Workshop	
	Ethics	
	Family Lot Splits	
	Accessory Dwellings	

**Minutes**

**MOTION by Henry Wolsmann, SECONDED by Mary Link Bennett to approve the July 7, 2005 Board of Adjustment Public Hearing minutes, as submitted.**

**FOR:** Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke

**AGAINST:** None

**NOT PRESENT:** Gray

**MOTION CARRIED: 6-0**

Anita Greiner, Senior Planner, stated that Mr. Wolsmann would be attending the Public Participation Tour on August 15 in Minneola. Due to the Sunshine Law, only one BOA member may be in attendance.

Chairman Schreiner stated that if a variance is approved, the owner/applicant should give staff at least 24 hours before proceeding to the zoning counter. He then explained the procedure for hearing cases on the consent agenda. He noted that all letters, petitions, photographs, and other materials presented at this meeting by applicants and those in support or opposition must be submitted to staff prior to proceeding to the next case.

<b>CASE NO.:</b>	<b>BOA#80-05-2</b>	<b>AGENDA NO.:</b>	<b>2</b>
<b>OWNERS/APPLICANTS:</b>	<b>Douglas J. and Claire-Marie M. Warner</b>		

<b>CASE NO.:</b>	<b>BOA#81-05-5</b>	<b>AGENDA NO.:</b>	<b>3</b>
<b>OWNER/APPLICANT:</b>	<b>Mary G. Karst</b>		

Anita Greiner, Senior Planner, stated that the above owners/applicants have requested that their cases be withdrawn.

**MOTION by Mary Link Bennett, SECONDED by Carl Ludecke to accept the withdrawal of BOA#80-05-2 and BOA#81-05-5, as requested.**

**FOR:** Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke

**AGAINST:** None

**NOT PRESENT:** Gray

**MOTION CARRIED:** 6-0

**Discussion of Consent Agenda**

There was no one on the Board nor anyone in the audience who had an objection to the following cases remaining on the consent agenda: BOA#83-05-5, BOA#84-05-1, and BOA#95-05-2. The following cases were requested to be taken off the consent agenda and heard on the regular agenda: BOA#85-05-1 and BOA#88-05-5.

<b>CASE NO.:</b>	<b>BOA#83-05-5</b>	<b>AGENDA NO.:</b>	<b>5</b>
<b>OWNER:</b>	<b>Ricardo Valeroso</b>		
<b>APPLICANT:</b>	<b>Anthony S. Newton</b>		
<b>CASE NO.:</b>	<b>BOA#84-05-1</b>	<b>AGENDA NO.:</b>	<b>6</b>
<b>OWNERS:</b>	<b>Brian C. and Claire M. Brooks</b>		
<b>APPLICANT:</b>	<b>Robert E. Cyrus</b>		
<b>CASE NO.:</b>	<b>BOA#95-05-2</b>	<b>AGENDA NO.:</b>	<b>17</b>
<b>OWNER:</b>	<b>HNR Construction, LLC</b>		
<b>APPLICANT:</b>	<b>Paul Zukoski</b>		

**MOTION by Mary Link Bennett, SECONDED by Darren Eslinger to take the following actions on the above consent agenda:**

<b>BOA#83-05-5</b>	<b>Approval</b>
<b>BOA#84-05-1</b>	<b>Approval with one condition</b>
<b>BOA#95-05-2</b>	<b>Approval</b>

**FOR:** **Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke**

**AGAINST:** **None**

**NOT PRESENT:** **Gray**

**MOTION CARRIED:** **6-0**

**CASE NO.:** **BOA#79-05-5** **AGENDA NO.:** **1**

**OWNER/APPLICANT:** **L. F. Charline Chandler**

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial, site plan, and pictures from the staff report on the monitor. She noted that the ten-acre parcel to the east is also requesting a variance at this meeting.

Mary Link Bennett asked if a variance was required to create the two five-acre parcels to the south. Ms. Greiner said those parcels were probably created before the current requirements.

Carl Ludecke confirmed with Ms. Greiner that no letters of opposition had been received.

Lillie Frances Charline Chandler said she and her husband have been foster parents for six years. Their efforts to adopt through the Department of Children and Families have not been very successful. Therefore, they would like to adopt through the private sector. In order to do that, they need to divide their property and sell five acres.

There was no one in the audience who wished to speak on this case.

**MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve the variance request in BOA#79-05-5 based on other tracts in the area and the seemingly good nature of the road.**

**FOR:** **Fox, Eslinger, Bennett, Schreiner, Ludecke**

**AGAINST:** **Wolsmann**

**NOT PRESENT:** **Gray**

**MOTION CARRIED:** **5-1**

CASE NO.: BOA#82-05-5

AGENDA NO.: 4

OWNER: Albert Yurko  
APPLICANT: Alison Yurko

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor. She submitted a wetland map as County Exhibit A and a flood zone map as County Exhibit B. She showed a drawing of how the property would be split from the staff report. When Carl Ludecke asked about the road access, Ms. Greiner showed the pictures from the staff report with views of Primrose Lane.

Mary Link Bennett asked the approximate width of the long narrow splits on the west side of the parcel. Ms. Greiner replied that each lot would be about 200 feet wide. Ms. Bennett confirmed that there would be sufficient uplands.

Mr. Ludecke said he would be more comfortable if this was split into three sites instead of four. Ms. Greiner said the County's concern is increased density on roads that are not County maintained. Mr. Eslinger said the minor lot split process provides for two parcels, not three. Ms. Greiner said the variance could be conditioned for three parcels instead of four.

In response to Ms. Bennett, Ms. Greiner said she did not know what types of residences, if any, are proposed.

Alison Yurko, a land use attorney, was present to represent her father, Albert Yurko. She said this 20-acre parcel has a zoning entitlement to 160 density units. They are asking for one-quarter of one percent of the zoning entitlement. At the time this property was rezoned, her mother became terminally ill so they did not follow up on the 32-lot subdivision that was planned. Unfortunately they also allowed the vested rights ordinance to terminate in June of 2003. Planners recommended coming to this public hearing and requesting a variance. Her father would like to be able to sell some of this property to get a fraction of a return on his investment. Her understanding is that dirt roads are better than paved roads for wetlands. She felt the road issue is going to take care of itself. She submitted a historical map as Applicant Exhibit A. She noted the small lots adjacent to the subject property. This area historically has had considerable density. Their request has less density than nearby property. The Rural Village land use designation is nearby. They are willing to accept four lots since they cannot use their original plan of 32 lots. She submitted a copy of that original plan as Applicant Exhibit B. She read the intent of the Agriculture and RM zoning districts as well as Section 14-15.01 regarding the purpose of variances. She felt this request is infinitely reasonable. She spoke of violating the principles of fairness. Her father is not a developer.

Lydia Hill said she maintains Primrose Lane so she is concerned about a lot of traffic on that road. In response to Darren Eslinger, Ms. Hill said she maintains Primrose Lane from Emerald Avenue to her property. Ms. Hill said she does not receive any assistance from other neighbors. There is no signed road maintenance agreement. In response to Mary Link Bennett, Melanie Marsh said this Board could condition the variance to require a road maintenance agreement, but she felt Ms. Yurko would probably be willing to work with her neighbors, perhaps entering into a private road maintenance agreement. Ms. Hill reiterated that the neighbors do not want a lot of traffic on this road. In addition, the wetland area is wet. Ms. Bennett was informed by Ms. Marsh that the County does not have a road maintenance format for people to maintain roads. However, she pointed out that if the Board made a road maintenance program a requirement, if the neighbors did not want to work with the Yurkos, then the Yurkos would be stuck.

Carl Ludecke stated that if this variance is not approved, the Yurkos only other option would be to apply for a platted subdivision if they wanted the four lots. When he asked if staff had the authority to grant them four lots without going to a Board, Ms. Marsh explained that the platting process would ultimately lead to the Board of County Commissioners (BCC) for approval of the final plat. Ms. Greiner added that the previous lots were requested prior to the Comprehensive Plan. These new lots would be created after the adoption of the Comprehensive Plan. The future land use for this property is Rural, which allows one unit



CASE NO.: BOA#82-05-5

AGENDA NO.: 4

OWNER: Albert Yurko  
APPLICANT: Alison Yurko

PAGE NO.: 2

per five acres. Even if the property is zoned RM, five acres would still be required for each lot. Therefore, this property could not have a density of 160 units as Ms. Yurko stated because the property was not developed at the time that density was allowed. Since the Comprehensive Plan was adopted, the most lots this property could be split into would be four as the entire parcel is 20 acres. Even the 32 lots that were proposed years ago would not be permitted at this time.

Donald Schreiner said his major problem is the lack of control by this Board if this variance was approved without specific conditions regarding the wetlands. However, staff has stated that if this split would go to Development Review Staff (DRS), those stipulations would be added.

Mr. Ludecke said that in the time he has been back on this Board, there has only been one time that this Board has approved four five-acre tracts and that was on a paved road. He did not have a problem with three lots because where there are wetlands on the property, there would still be at least five acres of uplands. As Mr. Ludecke explained how he would like it split into three lots, Ms. Greiner drew it on the aerial (County Exhibit C).

Since she is a homeowner subject to a road maintenance agreement, Ms. Yurko said she has a form she could use. She has no problem conditioning this variance on a road maintenance agreement for that portion of the road that the neighbor is currently maintaining. If her father would have four lots and the neighbor has one five-acre lot, then she felt her father should participate for four-fifths of the cost of maintaining that section of the road. Judging from the map, she said it appears that there may be more than one parent tract. She agreed that currently they do not have a legal entitlement of 160 units. Whether a court would find Mr. Yurko has a vested right to more than four lots is not known. Mr. Ludecke asked Ms. Yurko if she could be happy with three lots instead of four. Ms. Yurko replied that they are already going from 160 to four. The Comprehensive Plan allows four lots. She would prefer to keep the four lots. Mr. Ludecke pointed out the risk involved if the variance is denied and she would have to go through the platting process and the BCC. She reiterated that she felt that the four-lot request is fair and reasonable and would not impose a hardship on neighbors. In fact, she felt it may help the neighbors to know that this tract will not be sold to a developer in ten years who would develop the property at a high density. The community may be better with four big lots and houses.

Mr. Schreiner asked if the Board could add a stipulation to the variance that the wetlands be placed in a conservation easement with a 25-foot upland buffer. Ms. Marsh replied that the Board could do that.

Ms. Greiner stated that the County maps indicate that there is one parent parcel. As far as future development, unless the future land use changed for this parcel, the greatest density anyone could put on this property would be four five-acre parcels.

When Mr. Schreiner stated that the Board could cover some of the points that staff has in their motion, Mr. Eslinger said he would prefer to leave it to the professionals in DRS to address the environmental concerns and access issues.

In response to Mr. Ludecke, Ms. Marsh said a member of this Board could make a motion for three lots even though the applicant is asking for four lots. This Board cannot make a motion for more than is being requested.

**MOTION by Darren Eslinger, SECONDED by Bob Fox to deny the variance request in BOA#82-05-5.**

**FOR: Fox, Eslinger, Schreiner, Ludecke**

**CASE NO.: BOA#82-05-5****AGENDA NO.: 4****OWNER: Albert Yurko**  
**APPLICANT: Alison Yurko****PAGE NO.: 3****AGAINST: Wolsmann, Bennett****NOT PRESENT: Gray****MOTION CARRIED: 4-2**

Ms. Yurko said she has spoken with her father, and they would be agreeable to a variance to allow three lots if a member is inclined to make such a motion.

**MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve the variance request in BOA#82-05-5 but to allow three lots instead of four and for the lots to be configured as shown on County Exhibit C. In addition, the wetlands shall be placed in a conservation easement with a 25-foot upland buffer.**

**AMENDMENT by Carl Ludecke, SECONDED BY Mary Link Bennett to require a road maintenance agreement to be submitted to the County.**

**FOR: Fox, Wolsmann, Bennett, Schreiner, Ludecke****AGAINST: Eslinger****NOT PRESENT: Gray****AMENDMENT  
CARRIED: 5-1****FOR: Fox, Wolsmann, Bennett, Schreiner, Ludecke****AGAINST: Eslinger****NOT PRESENT: Gray****MOTION CARRIED,  
AS AMENDED: 5-1**

CASE NO.:

BOA#85-05-1

AGENDA NO.:

7

OWNER/APPLICANT:

Raymond E. Jones

Anita Greiner, Senior Planner, presented the case and staff recommendation of approval with conditions. She showed the aerial and site plan from the staff report on the monitor. Without this variance, Ms. Greiner said this would be an unbuildable lot. The structures to be constructed on the lot would be the dwelling unit, a porch, a carport and a storage building. She noted the informational letter received from concerned property owners of Western Pines Subdivision. She showed the photographs from the staff report on the monitor. Donald Schreiner was informed that Lincoln Road is a paved road.

Ms. Greiner said the County maps do not show a wetland area, just a drainage easement. However, the survey showed that the drainage easement had created a wetland area.

In response to Carl Ludecke, Ms. Greiner said the lot is 100 feet by 230 feet. Mr. Ludecke confirmed that the rest of the lots in the subdivision are about the same size. Ms. Greiner said this property is in Western Pines, Phase 2, which was platted in November of 1990. This was prior to the setback change in 1997.

Walter Patterson, who lives across the street from the property, submitted a petition of close neighbors (Opposition Exhibit A) who request that this be denied because Mr. Jones has not lived up to the covenants of Western Pines that he received when he bought this property at auction, specifically Item 6. If at any time he lives up to that agreement, no one objects to his housing or variance. Mr. Ludecke pointed out that this Board cannot enforce subdivision restrictions. Ms. Greiner read Item 6 into the record.

Since it is an unimproved lot at this time, Mr. Schreiner asked if any one has maintained the drainage easement.

Ray Jones, owner of the lot, said that in April he went to the zoning counter with his plans, and he was told that he could put whatever he wanted on the site. He then got a permit to clear the lot. The County told a man he had hired to pull his permits that an elevation survey was needed because of the flood plain on the site. As requested, he acquired an elevation survey. His surveyor informed him of an area in the ditch that was a manmade wetland. He was told that he would need a variance to use the land. The whole ditch that runs along the back of all the lots and eventually goes into the canal is wetlands and cannot be touched. Mr. Schreiner confirmed that the ditch in question is on the east side of the subject property. Ms. Greiner explained that the ditch in question is not on Mr. Jones's property. The County does not enforce deed restrictions. If the neighbors want to enforce their deed restrictions relative to Mr. Jones's property, that would be a civil matter. Ms. Greiner pointed out the 7.5-foot drainage easement and the 15-foot drainage easement on his property. However, the site plan in the staff report (County Exhibit A) shows the ditch in questions as "NOT PLATTED/NOT INCLUDED." When Mr. Schreiner said the drainage easements on Mr. Jones's property must be maintained whether it is high and dry or not, Ms. Greiner said the deed restrictions require that, not the County. Mr. Jones said he has no objection to cleaning out the drainage easements, but he cannot do that because they are wetlands and cannot be touched. Ms. Greiner said that would be up to the Board as to whether they place any conditions on their motion.

Melanie Marsh, Deputy County Attorney, stated that the Board is hearing today a request for a variation from the 50-foot setback. All the Board needs to consider is whether or not what Mr. Jones has proposed will meet the intent of the Land Development Regulations (LDRs). The homeowners' restrictions requiring specific homeowners to clean out specific ditches is not something this Board needs to consider. That would need to be enforced through civil means.

Bill Pierce submitted a flood map as Opposition Exhibit B, and the wetlands on the subject property were discussed.

**MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve the variance request in BOA#85-05-1 for a single-family dwelling unit and additions to be located 24 feet from the**

**CASE NO.:** BOA#85-05-1 **AGENDA NO.:** 7

**OWNER/APPLICANT:** Raymond E. Jones **PAGE NO.:** 2

jurisdictional wetland line with the following conditions:

The storm water plan must be constructed as indicated on the plans that were submitted and must be inspected by the Lake County Customer Services Division prior to a final inspection of the single-family dwelling unit and additions by the Lake County Building Division.

The owner and subsequent owner(s) shall be required to maintain the storm water plan as approved.

**FOR:** Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke

**AGAINST:** None

**NOT PRESENT:** Gray

**MOTION CARRIED:** 6-0

CASE NO.:

BOA#86-05-2

AGENDA NO.:

8

OWNERS/APPLICANTS:

Deby A. and Shelby A. Wilson, II

Anita Greiner, Senior Planner, stated that she has changed her recommendation on this case to denial because when she first reviewed this case, she was not aware that the property was in Apshawa Groves Subdivision.

She presented the case and the new staff recommendation of denial. She showed the aerial from the staff report on the monitor and submitted it as County Exhibit A. She drew a line on the aerial showing how the 5.6-acre parcel was split in 2000. Staff is recommending denial because this request would change the character of the subdivision. She showed the site plan and pictures from the staff report on the monitor. She noted the 14 letters of opposition received. She submitted a map showing the number of letter writers on the roads in the immediate area as County Exhibit B.

Carl Ludecke asked if this Board has ever approved two family lot splits on one tract. Ms. Greiner said it is done frequently, but this Board does not see them because they meet all the requirements. This request would change the character of the subdivision. In addition, it does not front on an easement that is at least 50 feet wide that connects to a County-maintained road. If this property was not in a subdivision and it was on a 50-foot easement that connected to a County-maintained road, it would not be necessary for these owners to come before this Board. The majority of the lots in this subdivision are five acres.

Deby Wilson was present to represent the case. She said she and her husband have owned 5.81 acres on Toad Road since April of 1998. In January of 2000, they built a 3300 square foot home for themselves along with a 1400+ square foot home for her parents. In order to do so, they were required by the Land Development Regulations (LDRs) to apply for a family density exception. Because they were not residents of Lake County at that time, they did not know they could have requested a variance to an accessory dwelling as opposed to splitting the property. She said her father was diagnosed with cancer earlier this year. At the same time, her son was searching for property nearby on which to build a home so he could assist in taking care of his grandfather. However, the price and availability of suitable nearby property was prohibitive. Since they have and want to share their property with their family, they thought it would be best for him to build near them to help in the care of his grandparents. She said Toad Road is a clay road, physically and financially maintained by her family without assistance from any neighbor. They have not asked their neighbors to share their time, effort or expense. The only household within 300 feet of their property is totally supportive and has no objection to their plans. They have a well-maintained homestead that they wish to share with their family.

Ms. Greiner said that at this time, they have two individual lots so they do have the ability to put an accessory dwelling unit on each lot, up to 1200 square feet or 40 percent of the square footage of the main dwelling unit living area. If this was done, the owners would be required to sign and record documentation agreeing to sell the home and accessory dwelling as one unit. Mary Link Bennett was informed that they would not need to remove the covered walkway.

Ms. Wilson said that when they had requested the family density exception the second time, they really had wanted to do a lot split adjustment on the property, which would put both current homes on one property and create the acre for her son. They were advised by the zoning staff not to do that. Ms. Greiner said they could not create a one-acre lot because this lot has Agriculture zoning in the Rural land use designation. A one-acre lot could only be created through the family density exception. Ms. Wilson said a 1200 square foot accessory dwelling would not be large enough for her son. Ms. Greiner pointed out that a 1320 square foot accessory dwelling could be placed on Parcel 2. Ms. Wilson said they have an agreement with their son that he cannot sell his parcel (it would not be in his name) as long as she and her husband are alive. Although they have four other children, they do not intend to split it further.

Mr. Schreiner read the names of the letter writers of the letters of opposition received into the record. He said the Board members have read those letters.

**CASE NO.:** BOA#86-05-2 **AGENDA NO.:** 8

**OWNERS/APPLICANTS:** Deby A. and Shelby A. Wilson, II **PAGE NO.:** 2

Katherine Peres, a resident on East Apshawa Road, said she and her husband are opposed to this variance and any changes in zoning or exceptions to the zoning of lots in the Apshawa Groves Subdivision that would lead to increases in density of residences on Lake Apshawa. They have lived on East Apshawa Road for 12 years. Their home is adjacent to the subject property in Agenda #16. They see these two cases as connected to one another. They moved here to live in a semi-rural community of large properties with as few residences as possible around them. Since their move to this area, they have been involved in almost every effort in their near community to slow growth, to diminish densities in planned development, and to retain at least some rural surroundings. She gave a brief history of the Apshawa Groves Subdivision. She asked the residents of Apshawa Groves Subdivision that were in the audience to raise their hands. She said they would like the density of Apshawa Groves Subdivision to remain at one unit per five acres. She submitted a copy of her presentation as Opposition Exhibit A.

Ernest Flores, a resident of East Apshawa Road, said he had written a letter of opposition for both this case and Agenda #16. He said he agreed with Ms. Peres 100 percent. He asked that this Board follow the recommendation of staff as well as the letters of opposition and deny this request.

Ms. Wilson said she understood their concerns. She moved to this area for the same reasons that they did. She cannot take care of this property herself. Her son is willing and able to help her, but he is entitled to his own space.

Darren Eslinger asked Ms. Wilson if she would be willing to look into the concept of the accessory dwelling unit for the property. She replied that her son has already spent \$1000 designing a home larger than 1600 square feet. In response to Mr. Schreiner, Ms. Wilson said the house that her son designed is 2800 square feet.

Hilda Briggs, a resident of East Apshawa Road, said she feels for Ms. Wilson and her family. She has lived in this area since 1994. They are being surrounded by subdivisions. When people buy land in this area, they know the density is one unit per five acres. They want to keep it that way.

Sharon Martin, who was present to represent Agenda #16, said she has no objection to the family density exception.

Dana Ray, a resident of East Apshawa Road, said his father also lives in Apshawa Groves Subdivision. He said he found a piece of property in the area and moved onto his own five-acre parcel so he could be close to his father. He was opposed to this case and to Agenda #16.

**MOTION by Carl Ludecke, SECONDED by Bob Fox to deny the variance request in BOA#86-05-2 based on the road conditions and the nature of the subdivision.**

**FOR:** Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke

**AGAINST:** None

**NOT PRESENT:** Gray

**MOTION CARRIED:** 6-0

CASE NO.: BOA#87-05-2

AGENDA NO.: 9

OWNER: Karen Cook  
APPLICANT: Brande Cook

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor, noting that the aerial shows how the parcel is proposed to be split. Ms. Greiner stated that she had someone from Emergency Services visit the site. She was told that Conniff Road is acceptable, but there is a soft area where the easement runs into Conniff Road so it probably could not handle the traffic. She showed the pictures from the staff report on the monitor. She submitted another aerial (County Exhibit A) showing the properties of the writers of the letters of opposition. She pointed out the adjacent parcel that the son owns. If this parcel is split, Ms. Cook's son would use the newly created parcel for agricultural purposes. However, if it is not split, he could still use it for agricultural purposes.

Brande Cook was present to represent her mother-in-law, Karen Cook. She and her husband own the adjacent parcel that Ms. Greiner just spoke of. She understood that the neighbors do not want more traffic on Conniff Road. She and her husband are building on their ten acres. The new parcel would not create any additional traffic. They have offered to maintain the easement. Mr. Barker does it now on his own. They want to be able to help her husband's mother as she cannot maintain the entire ten acres. She reiterated that the new five-acre parcel would be for agricultural purposes only. Ms. Cook added that there is an easement that leads to their property, but it has not been cut back yet so there will be a wider easement for emergency vehicles in the future. They are now in the process of drawing the plans.

At the request of Carl Ludecke, Ms. Greiner submitted a wetlands map (County Exhibit B) and a flood zone map (County Exhibit C) and showed them on the monitor. She drew two squares on County Exhibit C to show Mr. Ludecke where the existing and proposed houses are located. Ms. Greiner said it would be possible to sell the newly created five-acre parcel in five years as it was created by a family density exception.

When Darren Eslinger asked if a lot line deviation could be done to add five acres to the ten acres owned by the son, Ms. Greiner said that could not be done since the future land use is Rural Conservation, which requires ten acres.

Deborah Smith said she owns five acres, but it was never a family lot split. It was split before the ten-acre requirement. Her neighbor also has five acres, but it was not a family lot split either. The subject parcel was once part of a 30-acre parcel, which was part of a trust. In that trust, a 20-foot easement was created on their west side rather than on the property line where it normally should be and where it shows up on all the maps. Every deed since then shows them losing 20 feet as a right-of-way on the road leading from the subject property's 50-foot easement to Conniff Road. From the property where the son wants to build, there are three easements to get to a paved road. Conniff Road is very difficult to drive on when it rains, causing people to drive on the neighbor's property. One family maintains it. She submitted a portion of the original Groveland Farms plat map as Opposition Exhibit A.

Larry Smith said the right-of-way is an electrical easement. Construction vehicles cannot drive through there without driving across his property. He did not feel there is a hardship requiring this lot split. If there is a 30-, 50- or 100-year storm, that ten acres will be under water.

David Barker said this area is Groveland Farms, which was platted in 1911. Conniff Road is a 20-foot wide dirt road and is on a section line. He stated that he is adamantly against property splits. It would be much simpler and cheaper to add onto the existing house. Property splits are being used as a way around land use rules. He would like this request to be denied because the road is bad, and he did not want to see additional traffic on the road. He was also concerned about erosion.

**CASE NO.: BOA#87-05-2**

**AGENDA NO.: 9**

**OWNER: Karen Cook**

**PAGE NO.: 2**

**APPLICANT: Brande Cook**

**MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to deny the variance request in BOA#87-05-2.**

**FOR: Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke**

**AGAINST: None**

**NOT PRESENT: Gray**

**MOTION CARRIED: 6-0**

There was a ten-minute break.



**CASE NO.:** BOA#88-05-5 **AGENDA NO.:** 10

**OWNERS/APPLICANTS:** Lionel A. and Barbara J. Miller

Carl Ludecke submitted a conflict of interest.

Donald Schreiner stated that he had asked for this case to be removed from the consent agenda. In cases such as this where the variance is approved based on a stated hardship, he would like the hardship to be included in the motion. For example, in this case, the hardship is that a family member needs to live on the subject property. He wants to ensure that when the hardship expires, the variance expires.

In response to Mr. Schreiner, Melanie Marsh, Deputy County Attorney, said this Board could place such a condition on the variance. Mr. Schreiner said monitoring would be done mostly by neighbors. He had no objection to this case being approved if the condition regarding the variance expiring when the hardship no longer exists is added. Mr. Schreiner said it may be beneficial if staff adds that condition with their recommendation of approval.

Mary Link Bennett confirmed with Anita Greiner, Senior Planner, that the mobile home is currently on the property. If a condition is added that the mobile home must be removed when the need ceases, Ms. Greiner explained that the owners could replace it with a mobile home that meets the size requirements.

Mr. Schreiner said he would also like the variance conditioned on a statement made by the applicant that if the property would be sold, the mobile home would be removed.

There was no one in the audience who had any objections to this request.

**MOTION by Darren Eslinger, SECONDED by Mary Link Bennett to approve the variance request in BOA#88-05-5 based on the following conditions: When the hardship as stated in the request, ends, the variance must cease; and when the property is sold or taken out of the current ownership, the accessory building must be removed.**

**FOR:** Fox, Eslinger, Wolsmann, Bennett, Schreiner

**AGAINST:** None

**CONFLICT OF INTEREST:** Ludecke

**NOT PRESENT:** Gray

**MOTION CARRIED:** 5-0

**CASE NO.:** BOA#89-05-5  
**OWNER:** Samuel Rednour  
**APPLICANT:** Leslie Campione, PA

**AGENDA NO.:** 11

**CASE NO.:** BOA#93-05-5  
**OWNER:** Samuel Rednour  
**APPLICANT:** Leslie Campione, PA

**AGENDA N O.:** 15

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial and pictures from the staff report for BOA#89-05-5 on the monitor. At the request of Carl Ludecke, she submitted a map (County Exhibit A) showing Lots 1 and 17 of Block 33 that need to be aggregated to make one buildable site and Lots 15 and 16 of Block 31 that would also need to be aggregated. Hal Wright owned both lots on the 1992 tax roll.

Leslie Campione was present to represent the case. She explained that in 1998 Mr. Rednour acquired the tax certificate for Lot 17. By 2001, he had paid all the back taxes and current taxes and received the tax deed from the Tax Collector. He was under the impression that the lot was a buildable lot. There were no disclaimers or statements suggesting that the Department of Growth Management should review it. At the same time he acquired another lot to be heard as Agenda No. 15. She asked that these two cases be heard together because they are basically the same facts other than the fact that the lot in Agenda No. 15 is a larger lot. The lot in Agenda No. 15 is Lot 16, Block 31.

In 2001, Ms. Campione said Mr. Rednour put both lots on the market and found buyers for both lots. He then contacted Ms. Campione because he had been told that he would not be able to convey good title unless he did a quiet title suit on both lots. When a lot of record determination was done, it was discovered that Lot 17, Block 33, needed to be joined to Lot 1, Block 33 because in 1992, both lots were owned by the same person. They have attempted to find the owners of the adjoining lots, but the realtor has been unsuccessful so they have no way of putting these adjoining lots together with one another. With regard to the septic tank on the lot in BOA#89-05-5, they will have to apply for a variance with Environmental Health. She did not feel that would be a problem; but if it was not approved, they would not be able to build on the site. Regarding the staff analysis and the requirements of the Comprehensive Plan, she did not agree that this Board could not grant a variance in this scenario. With no variance, this property cannot be used, and it would certainly not be marketable. If a variance is not granted, this property would be taken off the tax roll and not contribute to the tax base for Lake County. Since there are other houses on a single lot in this subdivision and this is only two lots, this would not be establishing a pattern that is different from what is already there.

Samuel Rednour said he purchased these properties primarily as an investment for his children. He is trying to clean up all problems so his children will not have to deal with it. When he purchased these properties, he was led to believe that both lots were buildable. He purchased the properties to either sell them or allow his children to build on them. Now he is being told that is not possible.

Donald Schreiner asked if there would be central water provided to these properties or if a well would be installed. Mr. Rednour said he could not say for sure, but a well may be necessary. He felt these variances should be granted as it was misleading that he was never told the lots were not buildable.

Since this was a subdivision, Ms. Campione said most lay people would believe they were getting a lot that they could use. She felt there was a definite hardship. From a fairness standpoint, there are similar-sized lots in the subdivision. If they don't have water, then those lots have been approved for the facilities they do have. However, hopefully they will find that these lots do have water.

Mr. Rednour said he has been told that if he had owned this property a little earlier, they would be buildable lots.

Mr. Ludecke said he had spoken to Environmental Health recently about a similar issue. He was told that if

**CASE NO.:** BOA#89-05-5  
**OWNER:** Samuel Rednour  
**APPLICANT:** Leslie Campione, PA

**AGENDA NO.:** 11

**CASE NO.:** BOA#93-05-5  
**OWNER:** Samuel Rednour  
**APPLICANT:** Leslie Campione, PA

**AGENDA N O.:** 15

**PAGE NO.:** 2

the property is high and dry, there would not be a problem if the well and septic tank can be located 75 feet apart and 75 feet from adjoining wells and septic tanks. However, if it is a new plat, one-half acre is needed for a well and septic tank. That is not the issue with these subject lots as this is an old platted subdivision. Ms. Greiner said it is an issue in these cases. The Comprehensive Plan said the lots must be 10,890 square feet of upland area if a septic tank is going to be used, and half an acre if a well will be used. Ms. Campione said her argument to that statement is that those rules were put into place for new development. That is how it has been interpreted by Environment Health. Ms. Greiner disagreed that it was for new development. It specifically says that it is for instances when a variance is being requested to the aggregation requirement. Aggregation is not necessary for new subdivisions. The rules are there for the old subdivisions. In response to Henry Wolsmann, Ms. Greiner said there was a similar circumstance last month; and the Board denied it because it did not meet the Comprehensive Plan.

Ms. Campione stated that if these lots were lots of record and there were no issues about aggregation but the lots were the same size, Mr. Rednour would be able to have a well and septic tank for each lot. She would like these lots to be treated as lots of record. Ms. Greiner said these lots cannot be treated as lots of record because they are not. These lots do not meet Comprehensive Plan requirements. The lots are not on publicly maintained roads, and the lots are not large enough. The letter from the Department of Community Affairs (DCA) states that this Board does not have the authority to grant a waiver to the Comprehensive Plan. Ms. Campione pointed out that in this instance, someone is denied his property rights. That is not constitutional.

When Darren Eslinger asked if there was any recourse through title insurance, Ms. Campione said Mr. Rednour's last recourse would be to file a suit against the County for due process and the fact that he does not have a right to use his property because of these rules and regulations.

Mary Link Bennett confirmed that there was no title insurance. Ms. Greiner said it is the buyer's responsibility to check on those requirements.

Mr. Schreiner asked what happens to a piece of property that cannot be used by its owner. Ms. Greiner said they may be able to find the other owners and purchase that property or sell their property to the other owners. Ms. Campione said that other owner must be found and then be cooperative.

Melanie Marsh, Deputy County Attorney, said this Board cannot grant a variance that is inconsistent with the Comprehensive Plan. Based upon the testimony given at this meeting, this Board must make a determination whether or not this request is consistent with the criteria specifically set out in the Comprehensive Plan that Ms. Greiner has presented. In terms of what property rights Mr. Rednour may or may not have if this variance is not granted, the fact that he cannot build on these lots does not deny him all use of the properties. There are other uses of the properties.

Ms. Greiner reiterated that the requests clearly do not meet two of the criteria so she questioned how the requests could be considered consistent with the Comprehensive Plan.

Ms. Eslinger felt there was definitely a fairness issue and a hardship issue, but he did not see how the intent could be maintained.

Mr. Rednour said if he had had any indication that these were not buildable lots, he would not have bought them.

**CASE NO.:** BOA#89-05-5  
**OWNER:** Samuel Rednour  
**APPLICANT:** Leslie Campione, PA

**AGENDA NO.:** 11

**CASE NO.:** BOA#93-05-5  
**OWNER:** Samuel Rednour  
**APPLICANT:** Leslie Campione, PA

**AGENDA N O.:** 15

**PAGE NO.:** 3

Ms. Greiner said staff believes there is a hardship, but the intent of the Code must be met as well.

If this Board grants this variance even if it is told that legally the variance cannot be granted, Mr. Ludecke asked what the County Attorney's office would do. Ms. Marsh said that staff as a party to this would have the option of appealing it to the Circuit Court.

In response to Mr. Eslinger, Ms Campione said it was the responsibility of the realtor to try to track down the owners of the Lot 1, Block 33 and Lot 15, Block 31. However, they had no success. Mr. Eslinger said there are other avenues for locating people. Ms. Greiner suggested the Property Appraiser's office or the Tax Collector's office. Ms. Campione said they have the addresses of the owners, but they have not gotten any response.

Ms. Campione felt these requests meet the intent of the Code. The problem is the letter of the law, the literal interpretation. Ms. Campione said Mr. Rednour does not have the option to aggregate since he does not own the other parcels.

Ms. Bennett asked if there was utilization for these properties other than building a house. Ms. Greiner felt they could continue to pursue the owners for the other properties.

Mr. Schreiner asked if a continuance would help. Ms. Campione said that a continuance of 30 days on both cases would be preferable to a denial. They could use that time to try again to locate the owners. Ms. Campione was concerned that it would be difficult to explain what has happened to the owners if they find them and to convince the owners that they are not trying to buy their property at a discount. Ms. Greiner suggested the other owners contact her and she could explain it. When Ms. Campione suggested staff writing a letter to the other owners, Ms. Ludecke felt a phone call may be more successful. Mr. Eslinger felt a letter from staff or the County would help support their claim.

Mr. Schreiner felt that a continuance to a specific date would be in order.

**MOTION by Darren Eslinger, SECONDED by Carl Ludecke to continue BOA#89-05-5 and BOA#93-05-5 until the October 13, 2005 Board of Adjustment public hearing**

**FOR:** Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke

**AGAINST:** None

**NOT PRESENT:** Gray

**MOTION CARRIED:** 6-0

Mr. Schreiner suggested that these cases be placed first on the agenda at the October public hearing.

CASE NO.: BOA#90-05-4

AGENDA NO. 12

OWNERS: Thomas and Frances Barmore  
APPLICANT; Leslie Campione

Anita Greiner presented the case and staff recommendation of approval with one condition. She showed the aerial from the staff report on the monitor. She submitted a survey (County Exhibit A) showing how they are proposing to split the property. A minor lot split would probably be better than a family density exception since they want to sell the property; and a family density exception would require them to keep the property for five years. She showed the pictures from the staff report on the monitor. One letter of opposition was received and is in the backup material. A second letter was received this morning and is also included in the backup material.

Leslie Campione was present to represent the case. She said the Barmore's daughter and son-in-law live on the tract north of them. It is 15-acre parcel. The Barmores would like to have less land to take care of and live adjacent to their family. A minor lot split would be the preferred method to accomplish what they want to do. If this variance is approved, the Barmores want to sell the larger tract with the existing house, and then they would build a smaller house on the smaller tract. However, rather than a five-acre and a 15-acre tract, they would prefer a three-acre and a 12-acre tract, which would be consistent with the density. Because of the zoning and future land use designation, Ms. Greiner explained that the parcels could be no smaller than five acres with the second parcel being the remaining ten acres. There is an easement agreement that was referenced in one letter of opposition. She reviewed this agreement and determined that this request would not be in violation of the agreement. Mr. Barmore is a party of that easement, and he can deed it to another party who buys the tract. The agreement prevents them from deeding out interest to the easement to someone outside of the original property that had the maintenance agreement in place. The road is maintained in good condition.

Ben Berghouse said he lives across from the proposed five-acre tract. He has lived in this area all his life and said the road is in the best shape he has ever seen. The biggest problem they have with maintaining the road is with one neighbor who hung a chain across the fence and started the argument. Mr. Berghouse said he supports this request.

Mr. Schreiner confirmed with Melanie Marsh, Deputy County Attorney, that easements are enforceable civilly and would not be a consideration for this Board.

**MOTION by Henry Wolsmann, SECONDED by Mary Link Bennett to approve the variance request in BOA#90-05-4 to allow a minor lot split to create a ten-acre parcel and a five-acre parcel with the condition that the created parcels cannot be split further utilizing the minor lot split or family density exception process.**

**FOR:** Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke

**AGAINST:** None

**NOT PRESENT:** Gray

**MOTION CARRIED:** 6-0

CASE NO.: BOA#91-05-5

AGENDA NO.: 13

OWNER: John P. Owens, Trustee  
APPLICANT: Leslie Campione, PA

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor.

Leslie Campione was present to represent the case. She said this case is based on a misunderstanding of what was actually needed to be done in order to maintain the family density exception, which was approved in 2001. At that time, the entire parent tract enjoyed an agricultural exemption. If after the approval, the Owens had done nothing to the property and continued to operate their grove, in July of this year, the two 2.5-acre tracts could have been sold to a non-family member. However, on the advice of their tax lawyer and their financial planner, the 2.5-acre tracts were deeded to Mrs. Owens and Mr. Owens separately for their individual family trusts. When the deeds were recorded and sent to the property appraiser's office, it was noted that there were no orange groves on these two tracts. Therefore, the agricultural exemption was removed.

Ms. Greiner submitted a memorandum from Frank Royce of the property appraiser's office regarding the recordation of those two deeds as County Exhibit A. Ms. Campione added that the memo states that if these two deeds had not been recorded, the agricultural exemption would have remained on the parcel. Their problem lies with the property appraiser's office removing the agricultural exemption. Staff's position is that the lot split became void. Back in 2001 when the Owens submitted the application, at least \$5,000 was spent on surveying. In addition, there were application fees. Nothing changed about how this property was used. It continued to be used for citrus purposes. Had they known at the time that the agricultural exemption was dropped that they were going to lose those splits, they would have done what they needed to do to keep those lot splits valid. As staff had requested, she submitted information (Applicant Exhibit A) to show that there are some agricultural uses on the two 2.5-acre parcels. She said those two parcels have trees on them for planting purposes, trucks are parked on the property, and there is a well on the property that serves the citrus grove. If this variance is approved, the Owens want to combine the two 2.5-acre parcels into one five-acre parcel and then sell it to a sister.

When Carl Ludecke asked why the 2.5-acre parcels had to be used for agricultural purposes, Ms. Greiner said that is the way it is done in every case. In a family density exception, the owner either has to build on the property within a year and get a certificate of occupancy or keep an agricultural exemption on it. Staff had said that if the owners could confirm that the parcels were used for agricultural purposes, the five-year retention period could be waived. However, staff would want them to go through the process of splitting the lots again because the original family density exemption has expired.

Ms. Campione said they are asking not to be required to go through the application process again because the costs involved are basically the same as those in 2001. The owners do not have a problem with combining the two 2.5 acre parcels into a five-acre parcel if that would help to move this forward. Ms. Greiner said staff is not asking for the parcels to be combined. If the survey contains all the necessary current information, only an application with applicable fees (about \$800) would need to be submitted for review.

At the request of Mr. Ludecke, Ms. Greiner drew the two 2.5-acre parcels on the aerial (County Exhibit B) she had shown earlier. Then she submitted a GIS map (County Exhibit C) giving a close-up of the parcels. In response to Mr. Ludecke, Ms. Campione said there are some wetlands on the parcels, but there are plenty of uplands. She submitted a sketch of description showing the wetlands as Applicant Exhibit B. Mr. Ludecke asked how an agricultural exemption could be claimed when the parcels are completely wooded.

Pamela Owens, half owner of this property, said they grow baby trees to be replanted. They are grown under cover. There is a well on the property for irrigation. They store some of their equipment on the site. They were not aware that they had to build within a year. They thought they had an agricultural exemption. When they received a notice that they were not exempt due to the pine trees, they did not understand and

CASE NO.: BOA#91-05-5

AGENDA NO.: 13

OWNER: John P. Owens, Trustee  
APPLICANT: Leslie Campione, PA

PAGE NO.: 2

contacted Ms. Campione. They thought they had to wait for three years to build. Ms. Campione said the Owens are now ready to build, but the family density exemption has expired.

In response to Mr. Ludecke, Ms. Campione said a 50-foot easement to this property was dedicated when the lot split was done. The Owens would like the 2001 lot split to be recognized so they do not have to start over under current regulations with a five-year retention period. When Mr. Ludecke asked Ms. Owens if she had a problem with a stipulation requiring a permit to be pulled within a certain time, Ms. Owens said she did not.

Donald Schreiner asked if staff agreed that this property is being used and has been used for agriculture. Ms. Greiner said this Board would make that determination. Staff does not have an issue with the five-year retention period. However, staff would like the owners to go through the application process again. It would take her about 30 days to process the application. The family density exception they now have is void. Ms. Campione said she did not understand why it was voided. Ms. Greiner replied that it was not completed. Staff does not have the authority to waive the fees.

There was no one in the audience who wished to speak on the case.

Mr. Schreiner asked if this Board accepts the testimony that this property has been used for agricultural purposes. Ms. Owens said she had some pictures to confirm that this property was used for agricultural purposes.

Mr. Ludecke said he could support giving a variance for the one five-acre tract on a 50-foot easement with the stipulation that they pull a permit within a year.

Darren Eslinger stated that the original request was for two 2.5-acre parcels. Mr. Ludecke said they are willing to combine those two parcels into one five-acre parcel. Mr. Eslinger said the original application was for a family density exception.

Ms. Greiner explained that staff is recommending updating the family density exception and preclude the five-year retention period. If they follow the staff recommendation, Ms. Campione said they would submit an application, use the same survey, submit a title opinion, and possibly request from the County Manager relief with regard to the fees since the work is already done. She understood that there is no guarantee that the fees would be waived.

Chairman Schreiner stated that the Board of Adjustment has accepted the testimony that the property has been used for agriculture.

**MOTION by Mary Link Bennett, SECONDED by Darren Eslinger to approve the variance request in BOA#91-05-5 with the conditions that the owners must go through the application process again and obtain a permit within one year. It will not be necessary to retain the property in their possession for five years as is normally required.**

FOR: Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke

AGAINST: None

NOT PRESENT: Gray

MOTION CARRIED: 6-0

**CASE NO.: BOA#92-05-5 AGENDA NO.; 14****OWNER/APPLICANT: Mark J. Emden III, et al**

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor and submitted a map showing how the property would be split as County Exhibit A. She showed the pictures from the staff report on the monitor. She noted there were no letters of opposition received.

Mark Emden said the easement running north and south next to his property is also Grow Road. There are three residences behind his property on the north side. He has lived at this address for over 12 years. For the last three years, he has had incidents of skin cancer; and it has become difficult spending that much time in the sun trying to maintain the ten acres.

There was no one in the audience who wished to speak on this case.

**MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve the variance request in BOA#92-05-5.**

**FOR: Fox, Eslinger, Wolsmann, Bennett, Schreiner, Ludecke****AGAINST: None****NOT PRESENT: Gray****MOTION CARRIED: 6-0**



CASE NO.:

BOA#94-05-2

AGENDA NO.:

16

OWNERS/APPLICANTS:

Ben H. and Leslie E. Griffin

Anita Greiner, Senior Planner, presented the case and staff recommendation of denial. She showed the aerial from the staff report on the monitor. She submitted a map showing how the parcel would be split as County Exhibit A and two maps showing the properties of the writers of the letters of opposition as County Exhibits B and C. Eighteen letters of opposition have been received. Across the street in the City of Minneola is a subdivision of one-quarter acre parcels. At the request of Carl Ludecke, Ms. Greiner pointed out the location of the house on the property. She explained that the owners could add an accessory dwelling of no larger than 1,200 square feet on the one parcel. That would not require a variance. However, the parcel must stay as one 5-acre parcel; it could not be split and sold separately.

Sharon Martin was present to represent the Griffins. She said Mrs. Griffin has been diagnosed with a very rare incurable long-term illness, possibly fatal. Although Mr. Griffin is the primary caregiver, he has two sons who live with them. With the prices of houses and land, neither son can purchase property and build a house. Because of their mother's medical condition, they want to be close to home. In addition, Mr. Griffin needs help to care for Mrs. Griffin. She spoke of the conditional use permits in the area. There are already three family density exemptions approved in this subdivision. They would like to have two one-acre parcels, but she asked if they could have at least one one-acre parcel.

When Mary Link Bennett asked if the Griffins would be willing to have an accessory dwelling for one of the sons, Ms. Martin said that would limit the son to only 1,200 square feet. Ms. Greiner acknowledged that there are other family density exemptions in this subdivision, but the splits were two and three acres; none are as small as one acre. There are several options for this property. The Board could deny the variance, it could grant a variance for two lots instead of three, or if this Board does not feel this request would change the character of the subdivision, they could grant the variance for three lots.

In response to Mr. Ludecke, Ms. Greiner said that if this variance is approved, they would have to obtain the certificate of occupancy on the house within one year of the application date. They must also keep the property within the family for five years. If a house is not built on the property, the property must have an agricultural exemption for the entire five years or until they build a house. This property is zoned Agriculture. Ms. Martin said the oldest son is planning on pulling a permit as soon as possible. He is in the designing stage of the house right now.

When Donald Schreiner asked if it would be possible for the owners to use the accessory building clause and then ask this Board to grant a larger square footage than 1200, Ms. Greiner said that would need to come back before this Board next month as the case was not advertised for that. Mr. Schreiner said he would prefer keeping it as one parcel within the family with a larger home on it rather than splitting it into one-acre parcels. Ms. Martin said they would be agreeable to a one-acre parcel and a four-acre parcel or a two-acre parcel and a three-acre parcel. It takes the effort of the whole family to give the proper care in a situation such as this. Ms. Greiner reiterated that if a family density exception is granted, neither parcel could be sold for five years. If an accessory dwelling is placed on the property, the two dwellings could never be sold separately. It would need to remain as one five-acre tract.

Ms. Martin informed Henry Wolsmann that that the main house is slightly over 3000 square feet. She said the conditional use permits in the area generate a lot of traffic, and Mr. Griffin has not objected.

Ben Griffin said his family settled in Central Florida in the 1860s. He and his family are not going anywhere. This is a very tight-knit family. He informed Mr. Ludecke that his house has 2,000 square feet with a three-car garage. Since there are other family density exceptions in the subdivision, this would not be setting a precedent.

Dr. Dwaine Zagrocki, who lives on the west side of the lake on West Apshawa Road, said he has lived at that address since 1986. He stated that the property in this area has historic standing. He gave a brief

**CASE NO.:** BOA#94-05-2 **AGENDA NO.:** 16

**OWNERS/APPLICANTS:** Ben H. and Leslie E. Griffin **PAGE NO.:** 2

history of the subdivision. He was granted a variance in 1986. He has a veterinary clinic. When he was granted a variance, there was no opposition. If there was, he never would have made the variance request. Although he is sympathetic to the family, he also has to stand up for his principles. He also has two sons. He would like to pass his land on to one of his sons, but he will not divide it up. He felt this request would set a precedent if it is approved. The Griffins have other options such as putting on an addition to the main house or building a walkway from the house to an accessory dwelling unit. He felt this request would change the character of the neighborhood.

Ms. Martin said the property is narrow and has wetlands so the Griffins are limited as to how they can expand their house.

Carl Herder said he has owned property on Apshawa Road since 1985. He agreed with everything Dr. Zagrocki said. However, he did not agree with the statement made by Ms. Martin that the conditional use permits generate a lot of traffic.

Seth Kreiger said that when he applied for a Conditional Use Permit (CUP) as a condition of the purchase of his property, there was no opposition. The Griffin property is wider than his property so they should be able to do as much on their property as he has done on his property. As far as the traffic, the Griffins usually have as many cars in the front of their house as he does. His business is a mail order business so there are no customers or traffic going in and out.

Mr. Griffin reiterated that he is making this request for his wife. If his wife was not sick, he would not be at this meeting. She has not been able to work for almost three years. He needs the help of this Board.

Ms. Martin stated that the two family lot exceptions that were approved in their subdivision were done in 2002 and 2003. They are just asking to be treated the same. They would be willing to accept one two-acre parcel or one one-acre parcel. That would be no different than what has already been granted in that subdivision along with the CUPs in the area.

**MOTION by Carl Ludecke, SECONDED by Mary Link Bennett to approve the variance request in BOA#94-05-2 for one two-acre tract.**

Mr. Ludecke felt this would be consistent with what is already out there. By approving this, Mr. Eslinger said it would be allowing four units—two main dwelling units and two accessory dwelling units. Mr. Ludecke said anyone who lives out there could have two houses on five acres. The family lot split is an exception to the rules; but he felt in this case, it is justified. Mr. Eslinger did not feel it is consistent with the plan for development at all. He agreed there is a hardship. When Ms. Bennett asked about other options, Mr. Eslinger said there is an empty lot two doors down or an addition could be placed on the house.

**FOR:** Wolsmann, Bennett, Ludecke

**AGAINST:** Fox, Eslinger, Schreiner

**NOT PRESENT:** Gray

**MOTION VOTE:** 3-3

Bob Fox said he felt that 165 feet, which is the width of this lot, is adequate to enlarge the house and put a supplemental house within the guidelines the County already has. He did not feel there should be any changes or any allowances for any reason whatsoever.

**CASE NO.:** BOA#94-05-2 **AGENDA NO.:** 16

**OWNERS/APPLICANTS:** Ben H. and Leslie E. Griffin **PAGE NO.:** 3

**MOTION** by Bob Fox, **SECONDED** by Darren Eslinger to deny the variance request in BOA#94-05-2.

**FOR:** Fox, Eslinger, Bennett, Schreiner

**AGAINST:** Wolsmann, Ludecke

**NOT PRESENT:** Gray

**MOTION CARRIED:** 4-2

**Discussion**

Terrie Diesbourg, Director, Customer Services Division, stated that the meetings have been lasting longer and longer. In 2003 there were 86 cases brought before this Board, and in 2004 there were 88 cases. So far this year, this Board has heard 92 cases. She questioned whether the Board would want to start the meeting at 9 a.m. Henry Wolsmann was agreeable to starting the meeting at any time that was convenient to the most people. Darren Eslinger said he could not miss an entire day of work. With the growth in Lake County, Donald Schreiner said there will probably be more and more cases. When Mary Link Bennett suggested two meetings a month, Anita Greiner, Senior Planner, said that would make it difficult for her to complete her staff reports. Melanie Marsh, Deputy County Attorney, said it would also be difficult to meet notice requirements for two meetings a month. Mr. Eslinger suggested meeting at night. It would be more convenient for some members as well as some citizens. Ms. Bennett said some citizens are older and do not want to drive at night. Mr. Schreiner said he would like to leave it like it is for now. Ms. Diesbourg said they could finish out the year at the same time as now and see if the case load increases. The Board can then make a decision. Mr. Ludecke said he would rather have meetings until 5:30 than to meet in the morning or evening.

Ms. Greiner reminded the Board of the workshop next month after the regular meeting.

Ms. Marsh said there was an issue last month with some of the Board members talking to the applicants after the meeting. She asked the Board members to be careful about doing that especially if the case is not final. Although the Board member may not be talking about the case to the applicant, it gives the appearance that could be taking place and could spark inquiries from the Board of County Commissioners (BCC) on ethics.

Mr. Ludecke felt that the family density exception appears to be getting out of hand. Ms. Diesbourg pointed out that with the rewriting of the Comprehensive Plan, that issue will be addressed. Family density exceptions may go away or there may be a five-acre minimum.

Regarding the accessory dwelling unit, Ms. Diesbourg said staff is going to attempt to tighten that up. Mr. Ludecke said he would like to see the accessory dwelling attached, perhaps with a walkway. He felt it should be part of the complex. Mr. Schreiner said there are going to be cases like this that are scams. Staff has no way of knowing that. The County needs to rely on neighbors.

**Adjournment**

There being no further business, the meeting was adjourned at 5:35 p.m.

Respectfully submitted,

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Sherie Ross  
Public Hearing Coordinator

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Donald Schreiner  
Chairman